

# Mowery v. Lovrien

**Case Number**

A-14-0963

**Call Date**

September 16, 2015

**Case Time**

9:30 AM

**Case Audio**

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**Case Summary**

A-14-0963, Jeremiah J. Mowery v. Melissa A. Lovrien (Appellant)

Sarpy County, District Court Judge William B. Zastera

Attorney for Appellant: Terrance A. Poppe, Benjamin D. Kramer (Morrow, Poppe, Watermeier & Lonowski, P.C.)

Attorney for Appellee: Jeff T. Courtney (Jeff T. Courtney, P.C., L.L.O.)

Civil Action: Custody Order and Parenting Plan

Action Taken by Trial Court: The district court awarded custody of the parties' minor child and child support to Appellee (the father). The court also established a parenting plan which provided Appellant (the mother) with specified visitation time with the child.

Assignments of Error on Appeal: On appeal, Appellant asserts that the district court erred in awarding Appellee custody of the minor child and in creating a restrictive parenting plan that is not in the child's best interests. Specifically, Appellant asserts that she has been the child's primary caregiver since birth and that the child has a bond with her half-siblings that will be harmed if Appellee is awarded custody.

Extended Case Summary (for Educational Purposes):

A-14-0963, Jeremiah J. Mowery v. Melissa A. Lovrien (Appellant)

Sarpy County, District Court Judge William B. Zastera

Attorney for Appellant: Terrance A. Poppe, Benjamin D. Kramer (Morrow, Poppe, Watermeier & Lonowski, P.C.)

Attorney for Appellee: Jeff T. Courtney (Jeff T. Courtney, P.C., L.L.O.)

Civil Action: Custody Order and Parenting Plan

Action Taken by Trial Court: The district court awarded custody of the parties' minor child and child support to Appellee (the father). The court also established a parenting plan which provided Appellant (the mother) with specified visitation time with the child.

Assignments of Error on Appeal: On appeal, Appellant asserts that the district court erred in

awarding Appellee custody of the minor child and in creating a restrictive parenting plan that is not in the child's best interests.

Facts: Jeremiah (Appellee) and Melissa (Appellant) are the parents of a daughter, who was born in March 2011. Jeremiah and Melissa lived together until they broke up in March 2011. After the break up, Jeremiah continued to live in Papillion, Nebraska, and had visitation with his daughter every weekend. Melissa moved to Lincoln, Nebraska with her daughter and her three other children. At some point in time, Melissa became involved in a relationship with a known member of a street gang, while he was incarcerated. After his release from prison, the man moved in with Melissa and all four of her children. Melissa then had two more children. In November 2013, Melissa's boyfriend was incarcerated again after assaulting a man. Jeremiah then became concerned with Melissa's ability to provide a safe and stable environment for his daughter.

In December 2013, Jeremiah filed a complaint to establish custody and a motion for an ex parte order for emergency custody of his daughter. The district court granted the ex parte motion the day it was filed. After a trial, the district court awarded custody and child support to Jeremiah subject to Melissa's parenting time every other weekend and two weeks in the summer. Melissa appeals from this order.

On appeal, Melissa argues that she has been her daughter's primary caregiver since birth and they have a very close bond. She argues that awarding her custody would cause the least disruption in the child's life. She argues that her daughter should live with her to allow the child to develop close bonds with her half-siblings. She argues that in the custody of Jeremiah, the child will be cared for by his girlfriend and live with people she is not related to. She also argues that her boyfriend moved out of her home two months prior to Jeremiah filing his complaint and that she has no intention of resuming a relationship with him. She contends that the parenting plan is too restrictive for her and not in the best interests of the child because it will disrupt the relationship between them and between the child and her half-siblings.

To the contrary, Jeremiah argues that the district court's decision demonstrates that it found him to be more credible than Melissa. He argues that her testimony that she did not know that her boyfriend was a member of a gang was incredulous and called all of her testimony into question. He believes that Melissa chooses to associate with and allow gang members to be around her children and

disregards any risk to his daughter who is living in that environment. He argues that it is in the best interests of the child to be placed in his custody. Jeremiah asserts that the parenting plan is liberal, reasonable and in the best interests of the child.

### **Case Location**

Concordia University

### **Panel Text**

Irwin, Inbody and Riedmann, Judges

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